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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/590,020	10/23/2006	Renno Hjorth Rokkjaer	PATRADE	6715

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EXAMINER	
JUSKA, CHERYL ANN	
ART UNIT	PAPER NUMBER
1786	

MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/590,020	ROKKJAER, RENNO HJORTH	
	Examiner	Art Unit	
	Cheryl Juska	1786	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *25 May 2010*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *12-35* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *12-35* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination (RCE) under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 25, 3010 has been entered.

Response to Amendment

2. Applicant's amendment originally filed as an After Final Amendment on January 15, 2010 has been entered per the RCE. Claims 12, 27, 30, and 35 have been amended as requested. Claims 1-11 have been cancelled. Thus, the pending claims are 12-35.

3. Said amendment is sufficient to overcome the 112, 1st rejection set forth in section 4 of the last Office Action (Final Rejection mailed November 25, 2009).

Claim Objections

4. Claims 32 and 34 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Claim 32 is objected to

for its dependency upon itself. Claim 34 is similarly rejected. Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 14 and 26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. Claim 14 is indefinite because it is unclear which forming step (i.e., forming a carpet web or forming an outermost layer) the phrase "wherein the forming comprises..." refers back to.

8. Claim 26 is indefinite for the recitation of "the amount is less than 100 g dry matter/m^2." Claim 26 is dependent upon claim 25, which limits said amount to "between 50 and 500 dry matter/m^2." Hence, claim 26 is broader than claim 25 in that it includes the range of 0-50 dry matter/m^2.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –

> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 12-19, 27, and 30 are rejected under 35 U.S.C. 102(e) as being anticipated by US 2004/0253410 issued to Higgins et al.

Higgins discloses a surface covering element (e.g., carpet tile) having a friction enhancing coating disposed on the underside (abstract and section [0026]). The carpet may comprise face yarns tufted or bonded to a backing structure and may include a cushioning material (section [0026]). In one embodiment, the carpet tile includes a cushion layer 178, which may be a layer of foam, rebond foam, or a felt or other nonwoven, and optionally, a secondary backing layer 178 of a woven or nonwoven fabric (sections [0027], [0074], [0076] and Figures 13A-D). The friction enhancing coating, which may be a latex composition, can be applied by roll coating, spray coating, impregnation, powder coating, or a printing method (sections [0123] and [0124] and claims 5-8). After coating, a drying or curing process is employed (section [0124]). Said coating may be present in an amount not greater than 50 g/m^2 dry matter (claim 2). The carpet substrate is cut into various tile shapes (sections [0020] and [0021]).

The Higgins teaching of an embodiment of a carpet tile including a felt layer as the cushion layer, an optionally omitted fabric secondary backing, and a latex friction enhancing coating anticipates applicant's claims 12 and 16-19. Alternatively, if the cushion layer is absent (e.g., Figures 23A-23F) or considered part of the semi-finished product (e.g., primary carpet substrate), then the optionally present felt nonwoven secondary backing and friction enhancing coating anticipate applicant's claims 12 and 16-19.

Regarding 13, Higgins teaches embodiment where the cushion layer is bonded directly to the primary carpet substrate by means of an adhesive layer (e.g., Figure 14C). Hence, claim 13 is also anticipated.

With respect to claims 14 and 15, since Higgins teaches other adhesive layers (e.g., 124, 160) may be a latex or hot melt adhesive, like the friction enhancing coating, said claims are also anticipated.

Regarding claim 27, while Higgins does not explicitly teach a plant for producing the carpet tiles, the teachings of the reference implicitly teach the claimed plant (see at least working examples). The disclosed steps of providing layers, applying coatings, curing the coating, and punching tiles inherently includes a teaching to a means for providing said steps (e.g., a coating application unit, curing unit, etc.). Thus, claim 27 is also anticipated.

Claim 30 is also anticipated since the friction enhancing coating will inherently impart some degree of dimensional stabilization and rigidity due to it presence as another layer in the carpet tile construction.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

12. Claims 20-26, 28, 29, and 31-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over the cited Higgins reference.

While Higgins fails to explicitly teach suitable curing conditions, claims 20-22 are rejected as being obvious over the prior art. Specifically, a skilled artisan readily understands methods of curing polymers, wherein said method and temperature depends on the polymer being cured and the thermal stability of the adjoining layers. It has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233. Thus, claims 20-22 are rejected as being obvious over the prior art.

Regarding claims 23, 24, 31, and 32, Higgins fails to teach the basis weight of the felt cushion layer. However, it would have been obvious to a skilled artisan to select a basis weight within the range of 200-1500 g/m^2 in order to provide sufficient cushioning properties. It has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233. Thus, claims 23, 24, 31, and 32 are rejected as being obvious over the prior art.

Regarding claims 25, 26, 33, and 34, Higgins fails to teach a coating weight greater than 50 g dry matter/m^2. However, it would have been obvious to increase the amount of coating in order to provide an increase in overall thickness, enhanced frictional properties, and/or improved dimensional stability. It has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 205 USPQ 215. Thus, claims 25, 26, 33, and 34 are rejected as being obvious over the prior art.

With respect to claims 28, 29, and 35, Higgins fails to specifically teach a plant including storage, unwinding, or coiling units or that the application, curing, and punching units are an independent part of the plant However, the claims are deemed obvious over the prior art in that one of ordinary skill in the art understands the various plant features required to produce carpet tiles. As such, it would have been obvious to include various units which facilitate the manufacture of the disclosed carpet tiles. Additionally, it would have been obvious to arrange said units as needed for the manufacture process. Absent a showing of unexpected results obtained from the plant features, said features are held to being within the level of ordinary skill in the art. Thus, claims 28, 29, and 35 are rejected as being obvious over the prior art.

Conclusion

13. The art made of record and not relied upon is considered pertinent to applicant's disclosure.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheryl Juska whose telephone number is 571-272-1477. The examiner can normally be reached on Monday-Friday 10am-6pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner can be emailed at cheryl.juska@uspto.gov or the examiner's supervisor, D. Lawrence Tarazano can be reached at 571-272-1515. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

15. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Cheryl Juska/
Primary Examiner
Art Unit 1786

cj
September 8, 2010